IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO. 958 OF 2002

IN

WRIT PETITION NO. 1512 OF 1998

State of Maharashtra & Ors. .. Appellants
(Orig. Respondents)

Versus

Bharat Bijlee Ltd. .. Respondents
(Orig. Petitioners)

Mr. V.R.Dhond with M.M.Tally i/b. Government Pleader for the appellants.

Mr. N.H. Seervai, Senior Counsel, with Mr. C.D. Mehta i/b. Malvi Ranchoddas & Co. for the Respondents.

CORAM: D.K.DESHMUKH &
J.H.BHATIA,JJ.
DATE: 30th October,2007.

P.C.

1. By this Appeal, the appellants challenge only

that part of the order passed by a learned Single Judge of this Court dated 28.8.2002 in Writ Petition No.1512 of 1998 by which the learned Single Judge imposed costs of Rs.25,000/- to be paid by the Superintendent of Stamps who passed the impugned order from his pocket. Now, admittedly, to the Writ Petition, the Superintendent of Stamps was joined only by designation and the officer who passed the order which was impugned in the petition was not joined by name. Obviously, therefore, the order imposing costs on the officer personally could not have been made by the Court because the order making an individual to pay Rs.25,000/- as costs is an order adverse to the interest of the individual. Therefore, unless the individual is joined as party to the petition and the Court grants an opportunity of being heard as to why he should not be made to pay costs personally, the Court could not have made the order imposing costs. The order made, without granting the person an opportunity of being heard imposing heavy costs of Rs.25,000/- would be an order in breach of the principles of natural justice and, therefore, in our opinion, the challenge to that part of the order is well-founded.

2. In the result, therefore, the Appeal succeeds and is allowed. That part of the order impugned in the Appeal, viz. order dated 28th August, 2002 passed in

Writ Petition No.1512 of 1998 insofar as it imposes costs of Rs.25,000/- personally on the officer who was holding the post of Superintendent of Stamps at the time when the impugned order was made is set aside.

The Appeal is disposed of. No order as to costs.

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(D.K.DESHMUKH,J.)

(J.H.BHATIA,J.)